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			3625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/715,837	Applicant(s) GUPTA, PIYUSH	
	Examiner Yogesh C. Garg	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/4/2005 has been entered.

Response to Amendment

2. Applicant's amendment, received on 4/4/2005 is acknowledged and entered. The applicant has amended claims 1, 10-12, and 17-18, canceled claims 20-21 & 23-33 and added new claims 34-36. Currently claims 1-19 and 34-36 are pending for examination.

Response to Arguments

3.1. In view of the amendments made to claims 1, 10-12, and 17-18, and cancellation of claims 20-21, 31-32 rejection of claims **1, 10, 13-21, 31, and 32** under 35 USC 101 is withdrawn and also in view of the amendment to claim 18, claim objections made in the previous office action is withdrawn.

3.2. Applicant's arguments filed on 4/4/2005 with regards to the currently amended claims 1-19 and 34-36 have been fully considered but they are moot in view of new

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grounds of rejection necessitated due to amendments to claims 1, and addition of new claims 34-36.

3.3. Applicant's arguments filed on 4/4/2005 with regards to rejection of claims 18 and 32 under 35 USC 103 (a) as being obvious in view of Official Notice have been fully considered but are not persuasive because the Applicant has not traversed the concepts and facts of Official Notice taken by the examiner in rejection of these claims.. The applicant has not provided: (a) an adequate traversal of the Noticed item (b) pointed out any errors (c) provided an evidence contrary to the facts and benefits taken as Official Notice and (d) not demanded for an evidence and, therefore, the Noticed item is taken to be admitted prior art, see MPEP 2144.03 [R-1] C.

Specification

4 The amendment filed 4/4/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

(a) Claims 1-19 and 34-36 recite limitation, "if there are multiple offers having an offer price less than or equal to the reserve price, presenting to the consumer the multiple offers sorted in a predetermined order to allow the consumer to select one offer from the multiple offers". The applicant's disclosure teaches, see specification, page 19, lines 10-17, that if an offer is received which is lower or equal to the purchaser's price the method proceeds to step 361 to consummate the offer or if there are two or more equal lowest offers, then the lowest bid offer submitted first in time is designated as the "winning offer". The disclosure does not teach

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presenting to the consumer the multiple offers, received equal or lower to the purchaser's reserve price, sorted in a predetermined order to allow the consumer to select one offer from the multiple offers. Applicant is required to cancel the new matter in the reply to this Office Action.

(b) Claim 34 contains subject matter, "consummating a transaction between the particular consumer and seller offering a lowest offer price if the particular consumer does not select from the subset of offers within the second predetermined time period", which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant's disclosure teaches consummating a transaction between the particular consumer and seller offering a lowest offer price if the particular consumer does not select from the subset of offers only when the subset of offers are equal or lower than the reserve price but in the present case the subset of offers are higher than the reserve price, see claim 10 on which claim 34 depends.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-19 and 34-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) 1-19 and 34-36 contain subject matter, "if there are multiple offers having an offer price less than or equal to the reserve price, presenting to the consumer the multiple offers sorted in a predetermined order to allow the

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consumer to select one offer from the multiple offers; consummating a transaction with an offer selected by the consumer if the consumer selects from the multiple offers; and consummating a transaction with an offer having a lowest price from the multiple offers if the consumer does not select from the multiple offers", which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant's disclosure teaches, see specification, page 19, lines 10-17, that if an offer is received which is lower or equal to the purchaser's price the method proceeds to step 361 to consummate the offer or if there are two or more equal lowest offers, then the lowest bid offer submitted first in time is designated as the "winning offer". The disclosure does not teach presenting to the consumer the multiple offers, received equal or lower to the purchaser's reserve price, sorted in a predetermined order to allow the consumer to select one offer from the multiple offers.

Claim 34 contains subject matter, "consummating a transaction between the particular consumer and seller offering a lowest offer price if the particular consumer does not select from the subset of offers within the second predetermined time period", which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant's disclosure teaches consummating a transaction between the particular consumer and seller offering a lowest offer price if the particular consumer does not select from the subset of offers only when the subset of offers are equal or lower than the reserve price but in the present case the subset of offers are higher than the reserve price, see claim 10 on which claim 34 depends.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 and 34-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

See .MPEP <2173.03 [R-1]. Inconsistency Between Claim *and<amp Specification Disclosure or Prior Art [R-1]. Although the terms of a claim may appear to be definite, inconsistency with the specification disclosure or prior art teachings may make an otherwise definite claim take on an unreasonable degree of uncertainty. In re Cohn, 438 F.2d 989, 169 USPQ 95 (CCPA 1971); In re Hammack, 427 F.2d 1378, 166 USPQ 204 (CCPA 1970). In Cohn, the claim was directed to a process of treating a surface with a corroding solution until the metallic appearance is supplanted by an "opaque" appearance. Noting that no claim may be read apart from and independent of the supporting disclosure on which it is based, the court found that the description, definitions and examples set forth in the specification relating to the appearance of the surface after treatment were inherently inconsistent and rendered the claim indefinite.

Notwithstanding the subject matter recited in claims 1-19 and 34-36, that is "if there are multiple offers having an offer price less than or equal to the reserve price, presenting to the consumer the multiple offers sorted in a predetermined order to allow the consumer to select one offer from the multiple offers; consummating a transaction with an offer selected by the consumer if the consumer selects from the multiple offers; and consummating a transaction with an offer having a lowest price from the multiple offers if the consumer does not select from the multiple offers", the applicant's

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disclosure teaches, see specification, page 19, lines 10-17, that if an offer is received which is lower or equal to the purchaser's price the method proceeds to step 361 to consummate the offer or if there are two or more equal lowest offers, then the lowest bid offer submitted first in time is designated as the "winning offer". The disclosure does not teach presenting to the consumer the multiple offers, received equal or lower to the purchaser's reserve price, sorted in a predetermined order to allow the consumer to select one offer from the multiple offers.

Notwithstanding the subject matter recited in claim 34 that is, "consummating a transaction between the particular consumer and seller offering a lowest offer price if the particular consumer does not select from the subset of offers within the second predetermined time period", which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, the applicant's disclosure teaches consummating a transaction between the particular consumer and seller offering a lowest offer price if the particular consumer does not select from the subset of offers only when the subset of offers are equal or lower than the reserve price but in the present case the subset of offers are higher than the reserve price, see claim 10 on which claim 34 depends. Therefore, in conformity with the applicant's disclosure this limitation would be interpreted--consummating a transaction between the particular consumer and the selected seller's offer from the subset of offers within the second predetermined time period, which incidentally is already recited in the earlier limitation of this claim.

Further, claims 1-19 and 34-36 recite a conditional limitation, that is, "if there are multiple offers having an offer price less than or equal to the reserve price, presenting to the consumer the multiple offers sorted in a predetermined order to allow the consumer to select one offer

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from the multiple offers; consummating a transaction with an offer selected by the consumer if the consumer selects from the multiple offers; and consummating a transaction with an offer having a lowest price from the multiple offers if the consumer does not select from the multiple offers". It is unclear to the Examiner what the scope of claims 1-19 and 34-36 is when the conditional statement is not true. For example, if there are no multiple offers and there is only one offer then the above-cited limitation, starting with if, does not apply. Thus the scope of the claims 1-19 and 34-36 is indefinite in the event if there is only one offer and no multiple offers. For examination purposes, the Examiner will assume that the conditional statement/limitation, "if there are multiple offers having an offer price less than or equal to the reserve price, presenting to the consumer the multiple offers sorted in a predetermined order to allow the consumer to select one offer from the multiple offers; consummating a transaction with an offer selected by the consumer if the consumer selects from the multiple offers; and consummating a transaction with an offer having a lowest price from the multiple offers if the consumer does not select from the multiple offers", **are not true** because one of ordinary skill in the art would recognize that such a scenario a possible outcome in any commercial transaction and hence will not be further treated on merits for art rejection.

7. Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8.1. Claims 1-17, 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker US Patent 5,794,207), in view of Rackson and further in view of US Patent 6,108,639 (Walker et al.), hereinafter referred to as Patent ' 639.

Regarding claim 1, Walker teaches a computer implemented method of performing electronic commerce (See abstract at least), said computer implemented method comprising:

listing a set of available goods to a set of consumers for via the Web page of a Web server for online auction (see at least col.8, lines 57-65, " *CPO may be transmitted via a numerous means including a world-wide-web interface....*", col. 16 lines 3-7 and Fig.5 box 515, steps 510 and 520, " *buyer selects the subject of goods from a list of possible subjects*);

accepting a request for a specific product from a particular consumer via the Web page over a network; accepting a reserve price for said specific product from said particular consumer, said reserve price comprising a price acceptable to said particular consumer (see at least col. 15 line 49-50, Fig. 1, Conditional Purchase Order, " *The buyer logs creates CPO 100*". Note: The examiner has considered the CPO-Conditional Purchase order - as

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a request for said specific goods with a specified price in it and the specified price corresponds to the reserve/acceptable price. Also see col.16 lines 49-51, Fig.5, " *At step 550 the buyer enters a price....*");

distributing said request for said specific product and said reserve price to a set of approved sellers over the network (see at least col.9 lines 5-16, "*The central controller..... and globally displays CPO... available to be viewed by any potential sellers.....In one embodiment, the seller may be required to provide qualifications in order to view the CPOs*");

accepting at most one offer from each said seller in said set of sellers, each said offer comprising an offer price specifying a price at which an associated seller will sell said specific product (see at least FIG.10, " *steps 1010-Central Controller receives seller response* ", FIG.18, " *Step 1830-Central Controller receives seller counteroffer*", col. 19, lines 13-28, " *..... At step 1000, the potential seller selects CPO 100 which he would like to bind, developing seller response 110 At step 1010, central controller 200 receives seller response 110 from the potential seller. Central controller 200 then timestamps seller response 110 If two seller responses 110 are received within a few seconds of each other, the timestamp allows central controller 200 to decide which was received first.....* " and col. 22, line 40-col.23, line 5 " *.....sellers respond to CPO 100 not by binding it, but by making a counteroffer with modified and/or additional conditions.FIG. 18 illustrates the development of counteroffer 140. Central controller 200 receives counteroffer 140 at step 1830, setting the status to "active." Central controller 200 then adds a unique tracking number to counteroffer 140 at step 1840, and stores it in counteroffer database 267 at step 1850.* ". Note: Here, Walker discloses receiving an offer from each seller from a set of sellers at an offer price at which the said seller wants to sell the specific product. As regards the predetermined time see col.17, lines 48-64, " *CPO database 265 contains a record for each CPO 100, and includes fields such as status....expiration date,* ". The expiration

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date specified in the CPO corresponds to the predetermined time. Also see col.20, lines 5-15 and col.16, lines 37-41, " ... Conditions could also indicate **that for twenty-four hours following the first attempted bidding of CPO 100, other sellers may make offers to bind....**);

if there is only one offer having an offer price less than or equal to the reserve price, consummating, without intervention from the consumer, a transaction with said offer having an offer price less than or equal to said reserve price if said offer having an offer price less than or equal to the reserve price is received (see at least col.15, lines 56-59, , " Seller responses 110 are transmitted which contacts the buyer to indicate that CPO 100 has been boundtransfers credit card information to selleras soon as CPO 100 is bound". Note: The acceptance of CPO by the seller corresponds to an offer from seller at the reserve price, and also col.19, lines 13-21, 30-54 and Figs.10-11 teach that once a seller 's offer is received in binding a buyer's CPO the transaction is consummated without the intervention of the consumer.

Walker does not explicitly show that the said offers from sellers contain an offer price less than said reserve price. However, in the field of same endeavor that is buyer driven systems via electronic networks, Rackson teaches receiving offers from sellers at a price lower than the reserve price (see at least col.22, lines 49-67, "... In a normal reverse auction, the buyer describes the item they wish to purchase. Criteria may be inputted such as maximum price (similar to a reverse reserve price), or the buyer may list no criteria. The sellers then have an opportunity to offer the item competitively in a format analogous to a bidder bidding on the item. The buyer can accept or reject the offer. When a particular seller on a particular site offers on the item, the multi-auction service will use the bid replication methodologies previously discussed to duplicate his marginally lower offer on the other remote auction services, driving down the price for the buyer in all

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contemporaneous auctions.". Note: Rackson discloses that in a reverse auction sellers compete for the buyer's business by offering competitive prices lower than the reserve price.). In view of Rackson, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Walker to also include the concept of receiving offers from sellers not only at the reserve price but lower than the reserve price because it will help buyer to buy his products at the best possible price by allowing sellers to compete as demonstrated in Rackson.

Walker also does not explicitly show accepting offer occurs for a predetermined time period or until an offer having an offer price less than or equal to said reserve price is received. However, in the same field of endeavor, Patent '639 teaches this limitation (see at least col.11, lines 13-53, "*Once the CPO has been provided to the potential seller(s), then a test is performed during step 1036 (FIG. 10c) to determine if at least one seller accepts the CPO within a predetermined time period. If it is determined during step 1036 that at least one seller has accepted the CPO within a predetermined time period, then the accepting seller(s) are prioritized into a hierarchy during step 1038 based on predetermined criteria.If, however, it was determined during step, 1036 that no seller has accepted the CPO within a predetermined time period, then a further test is performed during step 1050 to determine if any sellers have submitted a counteroffer. If it is determined during step 1050 that no seller submitted a counteroffer, then the offer record is cancelled in the offer database 700 during step 1052, and the buyer is notified that the CPO could not be filled.*"). In view of Patent '639, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Walker to also include the concept of offer accepting occurring for a predetermined time period or until an offer having an offer price less than or equal to said reserve price is received because it will

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help the system to execute the transactions satisfying a predetermined criteria as demonstrated in the Patent '639.

Regarding claim 2, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses that listing a set of available products comprises operating a World Wide Web site with a catalog of products (See at least col. 13 lines 13-22, "*....Seller database 260 maintains data on sellers....Contact information comprises web page URL.... so that central controller 200 can quickly determinecapable of satisfying CP0100.*". Note: Seller's have a web site where their products are listed.).

Regarding claim 3, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 2 above. Walker further discloses that said catalog of products is searchable (see at least FIG.5, "*Step 510-Selects subject of goods*" and "*Step 515-Airline Ticket, Hotel room, Rental car, Insurance, Mortgage*" and col. 16, lines 3-7, "*...At step 510, the buyer selects the subject of the goods he wants to purchase by selecting from a list of possible subjects. As shown in box 515, subjects might include airline tickets, hotel rooms, rental cars, insurance, mortgages, clothing, etc. After the subject is selected,.....*". Note: selecting of the tickets or

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hotel rooms, etc. from a list of these prospects corresponds to the fact that said catalog of products is searchable.).

Regarding claim 4, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 2 above. Walker further discloses that said World Wide Web site comprises a hierarchical directory of products (see at least FIG.5, "*Step 510-Selects subject of goods*" and "*Step 515-Airline Ticket, Hotel room, Rental car, Insurance, Mortgage*" and col. 16, lines 3-7, "...*At step 510, the buyer selects the subject of the goods he wants to purchase by selecting from a list of possible subjects. As shown in box 515, subjects might include airline tickets, hotel rooms, rental cars, insurance, mortgages, clothing, etc. After the subject is selected,.....*". Note: The listing of products such as tickets or hotel rooms, etc. as shown in FIG.5 corresponds to the hierarchical directory of products because by selecting/clicking any one of these categories the user can get further details on the selected/clicked category of items.).

Regarding claim 5, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses that accepting a request for a specific product from a particular consumer comprises receiving an HTML form (see at least col.12 lines 10-12, "*In one embodiment..... operates as a web server, both receiving and transmitting CPOs 100 generated by buyers.*". Note: Web servers comprises receiving information in HTML form.)

Regarding claim 6, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses creating a web page that specifies said request for said specific product and said reserve price (see at least col.12 lines 10-12, "*In one embodiment..... operates as a web server, both receiving and transmitting CPOs 100 generated by buyers.*". Note: Web servers comprises receiving information on generated web pages.).

Regarding claim 7, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses sending an email to at least one seller that specifies said request for said specific product and said reserve price (col.18, lines 26-28, "*...In an alternative embodiment, CPO 100 is electronically mailed to potential sellers, either individually or in groups. ...*").

Regarding claim 8, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses receiving an email that specifies an offer price for said specific product (col. 9 lines 51-53, "*.....The present invention can also be practiced in off-line embodiments. Instead of using electronic mail or web-based servers, buyers and sellers may communicate with the central controller via telephone, facsimile, postal*

mail, or another off-line communication tool. ". Note: Here Walker is suggesting that email and web page are the preferred methods of communicating with sellers and buyers.).

Regarding claim 9, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses receiving an HTML form page that specifies an offer price for said specific product (see at least col.12 lines 10-12, "*In one embodiment..... operates as a web server, both receiving and transmitting CPOs 100 generated by buyers.*". Note: Web servers comprise receiving and sending information in HTML form to sellers' websites. As regards seller's websites see at least col. 13 lines 13-22, "*....Seller database 260 maintains data on sellers....Contact information comprises web page URL.... so that central controller 200 can quickly determinecapable of satisfying CP0100.*").

Regarding claim 10, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses displaying a subset of offers from said sellers to said particular consumer if none of said offers from said sellers are below said reserve price, the subset of offers being higher than the reserve price. (see at least col.22, line 40-col.23, line 5, "*....In one embodiment of the present invention, sellers respond to CPO 100 not by binding it, but by making a counteroffer with modified and/or additional conditions. An airline, for example, might view CPO 100 for a first class ticket for five hundred dollars. The airline may be willing to sell for six hundred dollars,FIG. 18 illustrates the development of counteroffer 140. ... For example, a car rental company might take the buyer's request for a ten dollar*

per day luxury car and counteroffer with a twenty dollar per day compact car. Central controller 200 receives counteroffer 140 at step 1830, Central controller 200 extracts the tracking number of CPO 100 attached to counteroffer 140 in order to find the buyer to whom counteroffer 140 is transmitted at step 1860. ". Note: Counter offers offered by sellers are higher than the reserve price and the same are conveyed to the buyer which corresponds to displaying a subset of offers which are higher than the reserve price.).

Regarding claim 11, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 10 above. Walker further discloses that displaying the subset of offers comprises sending an email message specifying the subset of offers to said particular consumer (see at least col.14, lines 8-29, "*Network interface 245 is the gateway to communicate with buyers and sellers through respective buyer interface 400 and seller interface 300. Several commercial electronic mail servers include the above functionality. network interface 245 may be configured as a voice mail interface, web site, BBS, or electronic mail address* ". Note: Walker discloses use of electronic mail system for communication with both buyers and sellers).

Regarding claim 12, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 10 above. Walker further discloses that displaying the subset of offers comprises generating a web page specifying said the subset of offers (see at least col.15, lines 45-52, "*..... In one embodiment of the present invention,*

communications between buyers and sellers take place via electronic networks, with central controller 200 acting as a web server. CPO 100 is made available to potential buyers by posting CPO 100 on the web page of central controller 200. ".Note: Walker discloses using web server and web page architecture to communicate with buyers and sellers.).

Regarding claim 13, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer and displaying a list of offers to said particular consumer if no offers are below said reserve price as analyzed and discussed in claim 10 above. Walker further discloses receiving a designation of one of said offer prices from said particular consumer and consummating a transaction between said particular consumer and a seller that offered said designated offer price (col.23 lines 6-18, Figs. 18, 19 and 12, "*the buyer decides whether or not to bind counteroffer 140..... buyer response 150 is transmitted to central controller 150* Purchase confirmation 120 is transmitted to the seller at step 1950 and transmitted to the buyer at step 1960....."). Note: In the "Counteroffer Embodiment" sellers respond to CPO by making counteroffers and then the buyer has the choice to select the best counteroffer and conclude by agreeing to place an order).

Regarding claim 14, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer and receiving a designation of one of said offer prices from said particular consumer and consummating a transaction between said particular consumer and a seller that offered said designated offer price as analyzed and discussed in claim 13 above. Walker further

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discloses that identification information associated with said particular consumer is provided to said seller that offered said designated offer price only after said particular consumer has designated said seller (see at least col.19, lines 55-60, wherein Walker teaches allowing sellers to correspond directly with buyers. In order to do so the identification information of the buyers stored in the buyer database (See col.13, lines 1-10) would have to be provided to sellers enabling them to communicate with buyers who have requested for the said product at said reserve price.

Regarding claim 15, Walker teaches a computer implemented method of Conducting an electronic commerce by matching buyer's request with seller's offer and receiving a designation of one of said offer prices from said particular consumer and consummating a transaction between said particular consumer and a seller that offered said designated offer price as analyzed and discussed in claim 13 above. Walker further discloses that identification information associated with said seller that offered said designated offer price is provided to said particular consumer only after said particular consumer has designated said seller (see at least col.19, lines 55-60, wherein Walker teaches allowing sellers to correspond directly with buyers. In order to do so the identification information of the seller stored in the seller database (See col.13, lines 11-22) would have to be provided to sellers enabling them to communicate with buyers who have requested for the said product at said reserve price.

Regarding claim 16, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses accepting a transaction fee after consummating said transaction (see at least col.20, lines 16-29, "*....In one embodiment, a flat fee is charged for every CPO 100 submitted. There could also be flat fees that would cover any number of CPOs 100 over a given period of time,*").

Regarding claim 17, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer as analyzed and discussed in claim 1 above. Walker further discloses accepting a consumer registration prior to accepting the request for the specific product from the particular consumer, said consumer registration comprising information from a consumer required to consummate a transaction between said consumer and a seller (see at least col.16, lines 51-58, "*... The ID number is received from central controller 200 when the buyer registers for the service.....Central controller 200 maintains a database of buyer ID numbers in a buyer database 225.....*").

Regarding claim 19, Walker teaches a computer implemented method of conducting an electronic commerce by matching buyer's request with seller's offer and consummating a transaction if at least one of seller's offers contains an offer price less than or equal to said reserve price as analyzed and discussed in claim 1 above. Walker further discloses consummating an offer received earlier in time if there are two equal lowest offers (see at least col.19, lines 21-25, "*The timestamp allows central controller 200 to*

determine the first unconditional acceptance to be received. If two seller responses 110 are received within a few seconds of each other, the timestamp allows central controller 200 to decide which was received first. " Note: Walker discloses here that if two sellers offer the same price the offer received earlier in time is considered for consummating the offer:).

Regarding claim 34, Walker in view of Rackson and further in view of Patent '639 teaches a method of conducting an electronic commerce and accepting offer occurs for a predetermined time period or until an offer having an offer price less than or equal to said reserve price is received, see Patent'639, col.11, lines 13-53, as analyzed in claim 1 above. Patent'639 further teaches allowing the particular consumer a second time period to select one of the subset of offers, see col.11, line 46-col.12, line 15, that is during step 1036 if it is determined that no seller has accepted the CPO (the reserve price) in a predetermined time (inherently first predetermined time) then at step 1050 the customer is allowed to select from the sellers' counter offers that is the subset of offers which are higher than the reserve price (CPO) and consummating a transaction between the particular consumer and a seller of the selected offer from the subset of offers during the second time period if the particular consumer selects from the subset of offers. It would be obvious that the second time period allowed to the user to select a offer from the subset of offers would be for limited time and as such a predetermined time in order to close the deal either way that is acceptance or refusal from the consumer. In view of pathet'639, it would have been obvious to one of an ordinary skilled in the art to have modified Walker in view of Rackson and further in view of Patent '639 as applied to claim 1 and 10 to incorporate the teachings of patent'639, that

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is allowing the particular consumer a second time period to select one of the subset of offers if it is determined that no seller has accepted the CPO (the reserve price) in a predetermined time (inherently first predetermined time) then at step 1050 the customer is allowed to select from the sellers' counter offers that is the subset of offers which are higher than the reserve price (CPO) and consummating a transaction between the particular consumer and a seller of the selected offer from the subset of offers during the second time period if the particular consumer selects from the subset of offers **because** it allows the opportunity to both buyer and seller to negotiate the price to the satisfaction of both to close the deal, as explicitly disclosed in '639.

Regarding claims 35-36, their limitations are closely parallel to claims 1 and are therefore analyzed and rejected on the same basis as being unpatentable over Walker (US Patent 5,794,207), in view of Rackson and further in view of US Patent 6,108,639 (Walker et al.), hereinafter referred to as Patent '639.

8.2. Claims 18 are rejected under 35 U.S.C. 103(a) as being obvious over Walker in view of Rackson and further in view of Official Notice.

Regarding claim 18, Walker in view of Rackson and further in view of Patent '639 teaches a method of conducting an electronic commerce by matching buyer's request with seller's offer and consummating a transaction if at least one of seller's offers contains an offer price less than said reserve price as analyzed and discussed in

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claim 1 above. Walker does not explicitly disclose consummating an offer containing said offer price which is the least among the said accepted offers from each said seller. However, Official Notice is taken of the old and well-known concept and benefits of consummating an offer containing the lowest offer price. It is a well-known fact that a buyer chooses the lowest priced offer for an item if a plurality of offers for the same item are available to him for the obvious reason of getting the item at cheaper price. In view of the Official Notice it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Walker in view of Rackson and further in view of Patent '639 as applied to claim 1 to include the feature of consummating an offer containing the lowest offer price because, as explained above, to save money.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) US Patent, 6598026 to Ojha et al. teaches, see col.2, line 45-62:

"According to the present invention, an electronic commerce solution is provided for facilitating online transactions which allows traditional negotiation between a buyer and a seller to occur. According to a specific embodiment, a web site is provided having individual private graphical user interfaces, e.g., web pages, for buyers and sellers. A buyer gains access to his private interface with a user ID and password. The buyer's interface allows him to search a proprietary database for current product information for a variety of products being offered for sale by a number of sellers. The product information includes, for example, the name of the seller and an ask price and/or a list price for the product as specified by the seller. The buyer may save the product information for any products in which he is interested to one or more shopping lists which become part of his interface."

(ii) US Patent 6, 871,190 to Seymour et al. relates to electronic commerce and in particular to an interactive computer system and method for conducting auctions over the Internet.

(iii) US Patent 6,366,891 to Feinberg is directed to a data processing system for conducting a modified on-line auction.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Primary Examiner
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